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IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-604

DEPARTMENT OF HIGHWAYS, STATE OF LOUISIANA,
Appellee-Petitioner,

versus

BEAIRD-POULAN, INC.,
Appellant-Respondent.

RESPONDENT'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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Beaird-Poulan Inc.

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MAY IT PLEASE THE COURT:

QUESTIONS PRESENTED

Beaird-Poulan Inc., Respondent herein, is dissatisfied with the Statement of Questions presented by the Department of Highways, State of Louisiana, petitioner herein, and shows that the following are the true questions presented:

A. Whether or not Article IV, Section 12, and/or Article VI, Section 22(c) of the Louisiana Constitution prevented the Department of Highways, State of Louisiana, from making relocation payments required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Relocation Act") during the period from January 2, 1971, through March 1, 1972.

B. Are the decisions of the Court of Appeals for the Fifth Circuit in this case and in *Named Individual Members of San Antonio Conservation Society v. The Texas Highway Department*, ___ F.2d ___ (1974), in conflict?

STATEMENT OF THE CASE

This two-count suit was brought by plaintiff, Beaird-Poulan Inc. against the Department of Highways, State of Louisiana (Department of Highways), and against John A. Volpe,[1] Secretary of Transportation (Secretary). Count One seeks a money judgment in favor of Beaird-Poulan and against the Department of Highways in the amount of $217,082.46 for moving expenses incurred by Beaird-Poulan. Count Two seeks a mandatory injunction against the Secretary to compel him to perform duties imposed upon him by an Act of Congress. This suit was brought pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84

1 Mr. Volpe's successor in office, Claude S. Brinegar, was substituted as party defendant (App. 30).

Stat. 1894, 42 U.S.C. §§ 4621-4638 (hereinafter called the Relocation Act).

The complaint alleges that Beaird-Poulan is a "displaced person," as defined in the Relocation Act and Department of Transportation (DOT) Regulations. The relocation move of Beaird-Poulan's manufacturing plant and offices to make way for I-220, a federally-assisted project, is alleged to have taken place during the months of April and May, 1971. The complaint further alleges that the Department of Highways has refused to pay the moving expenses or to process an administrative claim therefor.

As to the Secretary, the complaint seeks to compel him to comply with certain mandatory duties imposed upon him by the Relocation Act relating to compliance with the Relocation Act by the Department of Highways.

The District Court dismissed Beaird-Poulan's complaint for failure to state a claim upon the ground that Article IV, Section 12, of the Constitution of Louisiana prevented the Department of Highways from complying with the Relocation Act prior to March 1, 1972, and therefore the Relocation Act was not effective insofar as Louisiana was concerned at the time of the displacement of Beaird-Poulan during April and May of 1971. The Court of Appeals reversed and remanded for further proceedings.

ARGUMENT

I

Louisiana Law Did Not Prohibit The Department Of Highways From Complying With The Relocation Act.

The Relocation Act was passed by the 91st Congress for the express purpose stated in the Act, as follows:

> "The purpose of this title is to establish a uniform policy for the fair and equitable treatment of persons displaced as the result of federal and federally assisted programs in order that such persons shall not suffer disproportionate injuries as the result of programs designed for the benefit of the public as a whole." (Relocation Act, § 201).

Without going into detail concerning the rather complicated provisions of the Relocation Act, suffice it to say for present purposes that the Relocation Act provides for the payment of moving expenses to those persons displaced by the acquisition of immovable property for federal projects or federally assisted projects, including highways.

For present purposes, the critical provision in the Relocation Act is § 221, which establishes its effective date:

> "(a) Except as provided in subsections (b) and (c) of this section, this Act and the

amendments made by this Act shall take effect on the date of its enactment [January 2, 1971].

"(b) Until July 1, 1972, sections 210 and 305 shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. After July 1, 1972, such sections shall be completely applicable to all States."

The true question presented by this case, therefore, is whether or not the Department of Highways was prohibited by the Laws of Louisiana from complying with the federal statute. If it was not, the Act became effective on January 2, 1971, and its petition for certiorari should be denied.

The provision of the laws of Louisiana to which the Department of Highways has principally pointed is Article IV, § 12 of the Louisiana Constitution of 1921. The pertinent part of Article IV, § 12, reads as follows:

"The funds, credit, property or things of value of the State, or of any political corporation thereof, shall not be loaned, pledged or granted to or for any person or persons, associations or corporations, public or private; nor shall the State, nor any political corporation, purchase or subscribe to the capital stock or stock of any corporation or association whatever, or for any private enterprise. Nor shall the State, nor any political corporation thereof, assume the liabilities of any political, municipal, parochial, private or

other corporation or association whatsoever, except as otherwise provided in this Constitution; nor shall the State undertake to carry on the business of any such corporation or association, or become a part owner therein; provided, the State, through the Legislature, shall have power to grant the necessary rights of way through its public lands for the construction of any railroad, or flood control or navigation canal; and provided, police juries and municipal corporations may, in providing for destitute persons, utilize any charitable institutions within their corporate limits for the care, maintenance and asylum of such persons; and all appropriations made to such institutions for the purpose aforesaid, shall be accounted for by them in the manner required of officials entrusted with public funds. . . ."

Strange as it may seem, the Department of Highways contends that it could not comply with an obligation imposed upon it by federal law because to comply with the obligation would be to make an unlawful gift.

Because of the Department of Highway's contention that Louisiana, and only Louisiana, was unable to comply with the Relocation Act and that the exception to the effective date was enacted for its benefit, one would suppose Article IV, Section 12, to be unique to Louisiana's Constitution. That, however, is far from the case.

Of the three states which border Louisiana, we find that each of them has a provision in its Constitution similar to Article IV, Section 12:

Mississippi Constitution of 1890,
Article 7, §§ 258 and 183.
Arkansas Constitution, Article 16,
§ 1; Article 12, § 5, and Amendment 13.
Texas Constitution of 1876, Article 3,
§§ 50, 51.

The pertinent parts of these Constitutional provisions are reproduced in the Appendix hereto.

Yet, according to the Department of Highways, only Louisiana could not comply with the Relocation Act.

There are no reported decisions to our knowledge concerning the ability of other states to comply with the Relocation Act.[2] However, the Federal Highway Act of 1956 provided for discretionary relocation payments to utility companies in a manner similar to the mandatory payments set forth for displaced persons in general in the Relocation Act. Relocation payments under that statute were litigated.

In *State v. City of Dallas*, 319 S.W.2d 767 (Tex. Civ. App. 1958) and *State v. City of Austin*, 331 S.W.2d 737 (Tex. 1960), the Courts of Texas held that a statute authorizing the payment of relocation expenses was

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2 *Barnes v. Tarrytown Urban Renewal Agency*, 338 F Supp. 262 (S.D.N.Y. 1971), involved the question as a subsidiary issue in a suit to enjoin enforcement of Section 114(e) of the Housing Act of 1949, as amended, 42 U.S.C. § 1465(e).

not in contravention of the Texas counterpart to Article IV, Section 12. Of the "donation" contention, the Texas Court of Civil Appeals said:

> "The constitutional provisions in issue in these cases are similar to such provisions of other states and were designed to prevent the giving away of public funds and not to deny the Legislature the use of State funds for governmental purposes . . .
>
> "Clearly the construction of State highways is a governmental or public purpose and in the public interest." 319 S.W.2d at pp. 775-776.

In *Opinion of the Justices*, 132 A.2d 613 (N.H. 1957), the New Hampshire Supreme Court advised the Senate of that state that payment of utility relocation expenses was permissible under the New Hampshire Constitution.

In *Northwestern Bell Tel. Co. v. Wentz*, 103 N.W.2d 245 (N.D. 1960), North Dakota's counterpart to Article IV, Section 12, was held not to prohibit payment of utility relocation expenses. Minnesota's Supreme Court was of the same opinion in *Minneapolis Gas Company v. Zimmerman*, 91 N.W.2d 642 (Minn. 1958), as was West Virginia's in *State ex rel Appalachian Power Co. v. Gaines*, 143 S.E.2d 351 (W.Va. 1965), and Montana's in *Jones v. Burns*, 357 P.2d 22 (Mont. 1960), and Utah's in *State Road Commission of Utah v. Utah Power & Light Co.*, 353 P.2d 171 (Utah 1960), and Tennessee's in *Pack v. Southern Bell Tel. & Tel. Co.*, 387 S.W.2d 789 (Tenn. 1965), and so on.

The state jurisprudence overwhelmingly held that payment of relocation expenses to utility companies under the Federal-Aid Highway Act of 1956 did not violate Article IV, Section 12-type Constitutional prohibitions.

The Department of Highways can not point to a single decision of the courts of Louisiana which suggests, much less holds, that the payment of relocation expenses would violate Article IV, Section 12.

The most relevant case which we can find in the Louisiana jurisprudence is *Department of Highways v. Southwestern Electric Power Company*, 243 La. 564, 145 So.2d 312 (1962). That case involved the question of whether or not certain public utility companies had the right to be reimbursed for the expense of moving their facilities from the streets of the City of Shreveport in order to accommodate the construction of Interstate Highway 20 through Shreveport. The facilities had been laid on public ways pursuant to franchises granted to the utility companies by the City of Shreveport. The federal law in existence at that time, the Federal-Aid Highway Act of 1956, (23 U.S.C. § 123(a)) provided that "*When* a state shall pay for the cost of relocation of utility facilities necessitated by the construction of a project on the federal-secondary systems or on the interstate system" federal funds may be used to reimburse the state for the federal percentage applicable on that project, i.e., as pertains to Interstate 20, 90% federal reimbursement. The federal law at that time *did not require* any relocation payments. In its original opinion, the Louisiana Supreme Court held that the state must reimburse the

utility companies for the expenses of moving their facilities. It dismissed out of hand the state's contention that it could not by law reimburse the expenses since to do so would be a gift. 145 So.2d at 314. On rehearing, the Court held that the utility companies *did not have a right* to be reimbursed for the expenses of relocating their facilities since their property right in the public streets was subject to the rights of the state to compel the relocation. In its opinion on rehearing, the Court summarized its decision as follows:

> "... Liability of plaintiff for the costs of removal of the utilities' facilities from the public way is not to be determined on its right under the Federal statute to obtain reimbursement of a large proportion of the costs from the United States. On the contrary, such liability is to be resolved by the laws of this State. *The fact that our law may not prohibit reimbursement of the utilities has nothing to do with the plaintiffs' liability for reimbursement.* We hold that no such liability legally exists." 145 So.2d at 329.

The significance of the holding in the *Swepco* case is that the court rejected the Department of Highways' argument that to pay these expenses would be to make a gift and it also rejected the utility companies' argument that the mere fact that the State could recoup 90% of the expenses created an obligation to pay them.

The *Swepco* decision is even more significant when it is considered in context with the opinion of the Court of Appeal. The Louisiana Supreme Court, on rehear-

ing, reversed the Court of Appeal on grounds other than that relating to Article IV, Section 12. The Court of Appeal dismissed the Department of Highways' contention that Article IV, § 12, prohibited it from paying relocation costs by saying:

> "We observe the contention in brief of counsel for plaintiff that the State is prohibited from paying defendants' costs under Article IV, Section 12 of the Constitution. This unqualified statement is not supported by further argument and *our examination of Section 12, which prohibits the use of the credit of the State for the benefit of "* * * any person or persons, associations or corporations, public or private; * * *", completely fails to establish any basis for the conclusion urged.* Plaintiff's actions in the matter destroy this argument, for if it would be a violation to use the funds available for the benefit of a private corporation, it is equally illegal to use such funds for the benefit of a public corporation — the City of Shreveport. *We reject this argument as being without merit.*" 127 So.2d at 319. (Emphasis added).

Placed in the perspective of the federal law existing now, the *Swepco* decision directly supports the position of Beaird-Poulan in this case and, we submit, completely destroys the contention of the Department of Highways that Article 4, § 12, of the Louisiana Constitution prohibits it from complying with the federal law, which law now requires the Department of Highways to pay relocation expenses on federal-aid projects such as I-220.

The *Swepco* case holds that the Department of Highways *can pay* relocation expenses *if it must*. The Relocation Act says that the Department of Highways *must pay* relocation expenses *if it can*.

The Department of Highways also cites *James v. Rapides Parish Police Jury*, 113 So.2d 88 (La. App. 1959). That case simply holds that the Rapides Parish Police Jury could not pay $750 per year for a membership in a non-profit corporation named the Red River Valley Improvement Association. More appropriate authority would be *Caldwell Bros. v. Board of Supervisors*, 176 La. 825, 147 So. 5 (1933), in which the Louisiana Supreme Court stated the purpose of Article IV, Section 12, in terms remarkably similar to that used by the Texas Court quoted above:

> "Nor is the proposed action of the board in violation of section 12 of article 4 of the Constitution of 1921, which reads that: 'The funds, credit, property or things of value of the State or of any political corporation thereof, shall not be loaned, pledged or granted to or for any person or persons, association or corporation, public or private.'
>
> "*The purpose of this article was not to hamper state agencies or boards in the exercise of their proper functions, or in the conduct of their legitimate affairs, but to put an end to the practice of the Legislatures to pledge the credit of the state to aid private enterprises.* Benedict v. City of New Orleans, 115 La. 655, 39 So. 792." 147 So. at p. 7. (Emphasis added)

The Court of Appeals decision does not compel the Louisiana Legislature to lend it credit or make a grant. Instead, it only compels the Department of Highways to comply with an obligation imposed upon it by federal law in connection with its construction of I-220. Compliance with the "law of the land" is surely a proper function and legitimate affair of the Department of Highways.

We cannot understand how the payment by the Department of Highways to a person who has suffered an actual loss can be a donation when such a payment is required by an Act of Congress. There is obviously no donative intent on the part of the payor or Congress — only the intent to see that the payee is fully compensated for his loss. There is no gain on the part of the payee — he is only reimbursed for his actual and reasonable expenses.

Moving expenses are not recoverable as an item of damage in condemnation actions under Louisiana law, or, indeed, under any condemnation law of which we are aware. They never have been and are not now. That is the reason that the Relocation Act was passed by Congress, giving the displacee a separate right to recover his relocation expenses. But because relocation expenses were not recoverable under the state condemnation law does not mean that to pay them now under federal law is to make a donation.

The Department of Highways argues that the relocation expenses were not compensable under state condemnation law; therefore, to pay them would be to make a gift. This reasoning ignores the fact that the

Relocation Act, an Act of Congress, obligated the Department of Highways to make the payments. To make relocation payments is simply to satisfy a federal obligation, not to make a gift.

The argument of the Department of Highways is further undercut by the traditional treatment of relocation expenses. Moving expenses are not payable in condemnation cases because they are *damnum absque injuria*. E.g., *Rapides Parish School Board v. Nassif*, 232 La. 218, 94 So.2d 240 (1957), among many others.

Damnum absque injuria means:

> "Literally 'A loss without an injury;' damage without legal injury, or legal remedy. It is a phrase used to describe a loss arising from acts or conditions which do not create a ground of legal redress. The idea contained in the phrase is expressed more explicitly in the maxim, Ex damno sine injuria non oritur actio." 25A C.J.S.; verbo Damnum.

In other words, the law says to the unfortunate plaintiff, "I know you were hurt, but for some reason (and there may be many different reasons) you may not recover your damages." The federal statute now provides that the plaintiff can recover. This is not to say, however, that there is a "charitable donation," only that now the displacee can recover his true damages.

A more homely example would be the following situation: Under Louisiana law there is no recovery

for alienation of affection. If the Louisiana Legislature passed an act creating such a right of action, it would be most unlikely that anyone would consider the payment of a judgment by the paramour to the outraged spouse as a gift. New rights of action and new obligations are continually being created by both courts and legislatures. The law changes. The Relocation Act takes the *absque* out of the maxim, but that creates no gift situation.

The reason advanced for regarding moving costs as *damnum absque injuria* in condemnation actions is that these are " 'particular sacrifices which society has the right to inflict for the public good.' " *Rapides Parish School Board v. Nassif*, 232 La. 218, 94 So.2d 240 (1957). Quoting *McMahon et al v. St. Louis, A. & T.R. Co.*, 41 La. Ann. 827, 6 So. 640, 641 (1889). On the other hand, the specific purpose of Congress in enacting the Relocation Act was so that displaced persons "shall not suffer disproportionate injuries as the result of programs designed for the benefit of the public as a whole." Relocation Act § 201.

The relocation payments mandated by Congress do not evidence a desire of Congress to be generous, but something much more fundamental. They represent a change in policy concerning the basic concept about public projects. The House Public Works Committee reflected the change in policy in its report on the Relocation Act as follows:

> "The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is the culmination of lengthy and extensive ef-

forts to develop legislation establishing a uniform policy for the fair and equitable treatment of persons who are displaced, or have their real property taken for Federal and federally assisted programs. The need for such legislation arises from the increasing impact of Federal and federally assisted programs as such programs have evolved to meet the needs of a growing and increasingly urban population. In a less complex time, Federal and federally assisted public works projects seldom involved major displacements of people. There was relatively little taking of residential or commercial property for farm-to-market routes or for reservoirs or public buildings. Indeed, local support for such projects often resulted in little, if any, cost for land acquisition or rights-of-way. However, with the growth and development of an economy which is increasingly urban and metropolitan, the demand for public facilities and services has increasingly centered on such urban areas, and the acquisition of land for such projects has become the most difficult facet of many undertakings by public agencies. Also, a major public project — be it a highway, urban renewal project, or hospital — inevitably involves the acquisition and clearance of sites which now provide residential, commercial, or other services. As the thrust of Federal and federally assisted programs have shifted from rural to urban situations, it became increasingly apparent that the application of traditional concepts of

> valuation and eminent domain resulted in inequitable treatment for large numbers of people displaced by public action. When applied to densely populated urban areas, with already limited housing, the result can be catastrophic for those whose homes or businesses must give way to public needs. The result far too often has been that a few citizens have been called upon to bear the burden of meeting public needs."

House Report No. 91-1656, 91st Congress, 2nd Sess., 3 U.S. Code Congressional & Admin. News, pp. 5850-5851.

In our times we have seen many comparable changes in policy. Injuries long suffered without right to compensation have been made compensable.

The Department of Highways also argues that payment of relocation costs to Beaird-Poulan would have been a prohibited diversion of highway dedicated funds contrary to Article VI, Sections 22(c), 23 and 23.1 of the Louisiana Constitution. Yet in *Short & Murrell v. Department of Highways*, 233 La. 735, 98 So.2d 170 (1957), the Louisiana Supreme Court held that dedicated highway monies could be used to pay $136,365.00 for architectural services rendered in connection with the planning and designing of an administration building for the Department of Highways.

We fail to see how the Department of Highways can seriously contend that, although it can use the

highway funds to build itself an administration building, it is prohibited from using those funds to pay relocation expenses. The payment of federally required relocation expenses is clearly much more directly a highway purpose than constructing an administration building.

II

The Fifth Circuit Decision Is Not Discriminatory.

The Department of Highways contends that the decision of the Fifth Circuit in this case is in conflict with its decision in *Named Individual Members of San Antonio Conservation Society v. The Texas Highway Department et al.*, ___ F.2d ___ (No. 74-1231, 5th Cir. 1974). We submit that an examination of the opinions in the two cases, which are printed as Appendices to the Petition for Certiorari herein, reveal the fallacy of this contention. The Act of Congress involved in the *San Antonio Park* case was the Federal-Aid Highway Act of 1973, P.L. 93-87, 87 Stat. 250, specifically Section 154 thereof, which reads in pertinent part as follows:

> "Sec. 154. (a) Notwithstanding any other provisions of Federal law or any court decision to the contrary, the contractual relationship between the Federal and State Governments shall be ended with respect to all portions of the San Antonio North Expressway between Interstate Highway 35 and Interstate Loop 410, and the expressway shall cease to be a Federal-aid project. . . ."

The Act of Congress involved in this suit is the Relocation Act, specifically Section 221 thereof, which reads as follows:

> "(a) Except as provided in subsections (b) and (c) of this section, this Act and the amendments made by this Act shall take effect on the date of its enactment [January 2, 1971].
>
> "(b) Until July 1, 1972, sections 210 and 305 shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. After July 1, 1972, such sections shall be completely applicable to all States."

Section 154 of the Federal-Aid Highway Act of 1973 specifically and unequivocally ended the Federal-State relationship as to the San Antonio North Expressway. On the other hand, Section 221 of the Relocation Act does not specifically and unequivocally except Louisiana from compliance therewith. For the two statutes to be parallel, Section 221(b) of the Relocation Act would have to read as follows:

> "(b) Until July 1, 1972, sections 210 and 305 shall apply to all States, except the State of Louisiana. After July 1, 1972, such sections shall be completely applicable to all States."

It does not so read, and Congress made no judgment as what the laws of Louisiana prohibited. The plain language of Section 221 refers that decision to the judiciary. Since the statutes involved in the two

decisions are radically dissimilar, it can not be said that the decisions are in conflict.

We call to the Court's attention that this case and the *San Antonio Park* case were decided on the same day by the same panel of the Fifth Circuit. Indeed, they were orally argued on the same day. These facts, we submit, strongly support the proposition that the two decisions, rather than being in conflict, involve radically different statutes.

We further point out to the Court that the legislative history relied upon by the Department of Highways and quoted in Appendix "M" to its Petition for Certiorari relates to the Federal-Aid Highway Act of 1970, P.L. 91-605, 84 Stat. 1713. Section 120 of that Act amended Section 37 of the Federal-Aid Highway Act of 1968 to read, in part, as follows:

> "(b) In the case of any State (1) which is required to amend its constitution to comply with Sections 502, 505, 506, 507 and 508 of Title 23, United States Code, and (2) which cannot submit the required constitutional amendment for ratification prior to July 1, 1970, the date of July 1, 1970, contained in subsection (a) of this section shall be extended to July 1, 1972."

Thus, the Federal-Aid Highway Act of 1970 is more restrictive insofar as the contentions of the Department of Highways are concerned than is the Relocation Act. The Relocation Act, however, was enacted

subsequent to and repealed the conflicting portions of the Federal-Aid Highway Act of 1970.

CONCLUSION

The decision of the Fifth Circuit is, we submit, correct, and the Petition for Writ of Certiorari should be denied.

Respectfully submitted.

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PROOF OF SERVICE

STATE OF LOUISIANA,
PARISH OF CADDO.

BEFORE ME, the undersigned authority, personally came and appeared:

THOMAS J. WYATT

who, after being by me first sworn, did depose and say: That he is the attorney of record for Beaird-Poulan

Inc., Respondent, that he certifies that on this date he has served three copies of the foregoing brief on Jesse S. Guillot, attorney of record for Department of Highways, State of Louisiana, by placing same in the United States Mail, airmail postage prepaid, to his office at Post Office Box 44245, Capitol Station, Baton Rouge, Louisiana, 70804; also three copies to John J. Zimmerman, Esq., attorney for the Secretary of Transportation, by placing same in the United States mail, airmail postage prepaid, to his office address, Appellate Section, Land and Natural Resources Division, Department of Justice, Washington, D. C. 20530; also three copies to the Solicitor General, Department of Justice, Washington, D. C., 20530, on this, the ____ day of February, 1975, at Shreveport, Louisiana.

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SWORN TO and SUBSCRIBED before me, Notary, this, the ____ day of February, 1975.

NOTARY PUBLIC
in and for
Caddo Parish, Louisiana.

APPENDIX

Texas Constitution

Article 3, § 50:

> "The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State in aid of, or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever."

Article 3, § 51:

> "The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever; . . . ."

Mississippi Constitution

Article 14, § 258:

> "The credit of the state shall not be pledged or loaned in aid of any person, association, or corporation; and the state shall not become a stockholder in any corporation or association, nor assume, redeem, secure, or pay any in-

debtedness or pretended indebtedness alleged to be due by the state of Mississippi to any person, association, or corporation whatsoever, claiming the same as owners, holders, or assignees of any bond or bonds, now generally known as 'Union Bank' bonds and 'Planters Bank' bonds."

Article 7, § 183:

"No county, city, town, or other municipal corporation shall hereafter become a subscriber to the capital stock of any railroad or other corporation or association, or make appropriation, or loan its credit in aid of such corporation or association. All authority heretofore conferred for any of the purposes aforesaid by the legislature or by the charter of any corporation, is hereby repealed. Nothing in this section contained shall affect the right of any such corporation, municipality, or county to make such subscription where the same has been authorized under laws existing at the time of the adoption of this Constitution, and by a vote of the people thereof, had prior to its adoption, and where the terms of submission and subscription have been or shall be complied with, or to prevent the issue of renewal bonds, or the use of such other means as are or may be prescribed by law for the payment or liquidation of such subscription, or of any existing indebtedness."

Arkansas Constitution

Article 16, § 1:

> "Neither the State nor any city, county, town or other municipality in this State, shall ever lend its credit for any purpose whatever; nor shall any county, city, town or municipality ever issue any interest-bearing evidences of indebtedness, except such bonds as may be authorized by law to provide for and secure the payment of the indebtedness existing at the time of the adoption of the Constitution of 1874, and the State shall never issue any interest bearing treasury warrants or scrip."

Article 12, § 5:

> "No county, city, town or other municipal corporation shall become a stockholder in any company, association or corporation; or obtain or appropriate money for, or loan its credit to, any corporation, association, institution or individual."